APPENDIX A

(Florida Appellate Rules, as amended effective March 31, 1966, 32 Fla. Stat. Ann.)

Florida Appellate Rule 4.5c (6)

From District Court to Supreme Court. Where any decision of a district court of appeal (1) affects a class of constitutional or state officers, or (2) passes upon a question certified by such district court to be of great public interest, or (3) is in direct conflict with a decision of another district court of appeal or of the Supreme Court on the same point of law, petition may be filed with the Supreme Court to issue a writ of certiorari to review such decision.

The petition for certiorari under this rule shall be filed in the Supreme Court within 60 days from the rendition of the order, decision or judgment of the district court of appeal. The petition shall set forth briefly and clearly the grounds for invoking jurisdiction of the Supreme Court and the facts relied upon for the issuance of the writ. Unless the district court shall otherwise direct for good cause shown after notice and hearing, a petition for certiorari filed in the Supreme Court within 15 days from the date of the filing of the order, decision or judgment sought to be reviewed or within 15 days from the date of the disposition of a petition for rehearing shall automatically stay further proceedings in the district court and the trial court until the disposition of said petition by the Supreme Court; otherwise such petition for certiorari shall operate as a stay of such proceedings only upon the order of the Supreme Court or the Chief Justice after due notice to the adverse party.

Only so much of the record as shall be necessary to show jurisdiction in the Supreme Court shall be attached to or filed with the petition, and it may be in the form of conformed copies and need not be certified, except when a certificate of great public interest is made by the district court of appeal.

Copy of petition with certificate of filing the same in the Supreme Court shall be filed in the district court of appeal.

Copy of petition, and of the supporting portions of the record and brief relating only to jurisdiction of the Court, shall be served on the respondent or his attorney on or before the time petition is filed with the Clerk of the Supreme Court. Respondent shall file a reply brief in opposition, on the sole issue of jurisdiction, and serve copy thereof upon the petitioner within 10 days after he has been served with copy of the petition, supporting portions of the record and brief. Such reply brief may be supported by copies of additional portions of the record below which need not be verified, but which shall be filed and served with the reply brief.

The Supreme Court shall consider the petition, supporting record or portions thereof and the briefs on jurisdiction, without oral argument unless otherwise directed, and if the Court determines that it has jurisdiction, the said petition shall be granted; otherwise the same shall be denied or dismissed.

If granted, a copy of the order granting the petition shall be forwarded forthwith by the clerk to the district court of appeal and 45 days after the receipt of said order

or sooner by stipulation of parties (or within such other time as the Court may direct) the original record in the district court shall be forwarded by that court to the Clerk of the Supreme Court. Copies of said order shall be served by the Clerk of the Supreme Court upon counsel of record for the respective parties, and the cause shall be set for oral argument on the merits of the petition. Counsel for the petitioner shall file his brief on the merits and serve a copy thereof upon the respondent within 25 days from the rendition of the order granting certiorari. The respondent shall file his brief in opposition and serve a copy thereof upon petitioner within 15 days after he has been served with a copy of the petitioner's brief, and petitioner shall have 5 days thereafter within which to file and serve a reply brief.

When jurisdiction for certiorari is based on a certificate of a district court that the decision passes upon a question of great public interest, no preliminary brief as to jurisdiction need be filed, and upon the filing of the petition and such a certificate of the district court, an order granting certiorari may be entered and thereupon the matter shall proceed as outlined in the preceding paragraph.

When the case is finally disposed of by the Supreme Court, the Court may order a certified copy of such record, or of the part thereof which the Court deems necessary, filed in the Supreme Court before the original record is returned to the district court of appeal and shall assess the costs thereof in such order.

APPENDIX B

(New Florida statute, effective October 1, 1967, Florida Session Law Service supplementing Fla. Stat. Ann. [1967, No. 2], "Laws 1967 41st. Legislative Regular Session", at pp. 233-235)

OBSCENE, ETC. PUBLICATIONS—FELONY, EXEMPTIONS
CHAPTER 67-153
SENATE BILL NO. 226

An Act relating to obscene, lewd, lascivious, filthy, indecent, immoral, sadistic or masochistic publications; making it a felony to knowingly distribute such publications to persons under eighteen (18) years of age; prescribing penalties for the violation of this act; providing procedures for the criminal prosecution of violators; providing procedures for civil actions to restrain continued violations; exempting the exhibition of certain motion pictures; providing an effective date.

WHEREAS, it is hereby determined and declared that the sale, distribution and dissemination of publications, materials, matters, articles and things of the character described in this act, to individuals under the age of eighteen (18) years, is a contributing factor to juvenile crime, a basic factor in impairing the ethical and moral development of our youth, and a clear and present danger to the people of this state; NOW, THEREFORE,

Be It Enacted by the Legislature of the State of Florida:

Section 1.

A person who knowingly sells, offers for sale, advertises for sale, lends, gives away, shows, transmits or distributes to any person under the age of eighteen (18) years, or who knowingly has in his possession, custody or control with intent to sell, offer for sale, lend, give away, show, transmit, or distribute to any individual under the age of eighteen (18) years, any book, magazine, periodical, pamphlet, newspaper, comic book, story paper, written or printed story or article, writing, paper, card, picture, drawing, photograph, motion picture film, figure, image, phonograph record, or wire or tape or other recording, or any written, printed, or recorded matter of any character which may or may not require mechanical or other means to be transmitted into auditory, visual, or sensory representations or portrayals, the cover or content of which exploits, is devoted to, or is principally made up of descriptions or portrayals of illicit sex or sexual immorality or perversion or is obscene, lewd, lascivious, filthy, indecent, immoral, sadistic, or masochistic, or consists of pictures of nude or partially denuded figures posed or presented in a manner to provoke or arouse lust or passion, or manifestly tends to corrupt the morals of youth, or any article or instrument of indecent or immoral use; or who in any manner knowingly employs, procures, uses or permits any person to do or assist in doing, any act or anything mentioned above, shall be guilty of a felony upon conviction thereof and shall be punished by imprisonment in the state prison not exceeding five (5) years or in the county jail not exceeding one (1) year or by fine not exceeding ten thousand dollars ($10,000.00), or both such fine and imprisonment.

Section 2.

Every act, thing, or transaction forbidden by this act shall constitute a separate offense and shall be punishable as such.

Section 3.

Proof that a defendant knowingly committed any act or engaged in any conduct referred to in this act may be made by showing that at the time such act was committed or conduct engaged in he had actual knowledge of the content or character of the material, matter, article or thing possessed or otherwise dealt with or involved, or by showing facts and circumstances from which it may fairly be inferred that he had such knowledge, or by showing that he had knowledge of such facts and circumstances as would put a man of ordinary intelligence and caution on inquiry as to such content or character.

Section 4.

(a) The circuit court has jurisdiction to enjoin a violation of this act upon complaint filed by the state attorney, county solicitor, or county prosecuting attorney in the name of the state upon the relation of such state attorney, county solicitor, or county prosecuting attorney.

(b) After the filing of such a complaint, the judge to whom it is presented may grant an order restraining the person complained of until final hearing or further order of the court. Whenever the relator state attorney, county solicitor, or county prosecuting attorney shall request a judge of said court to set a hearing upon an

application for such a restraining order, such judge shall set such hearing for a time within three (3) days after the making of such request. No such order shall be made unless such judge shall be satisfied that sufficient notice of the application therefor has been given to the party restrained of the time when and place where the application for such restraining order is to be made.

(c) The person sought to be enjoined shall be entitled to a trial of the issues within one (1) day after joinder of issue and a decision shall be rendered by the court within two (2) days of the conclusion of the trial.

(d) In the event that a final decree of injunction is entered, it shall contain a provision directing the defendant having the possession, custody, or control of the materials, matters, articles, or things affected by the injunction to surrender the same to the sheriff and requiring the sheriff to seize and destroy the same. The sheriff shall file a certificate of his compliance.

(e) In any action brought as provided in this section, no bond or undertaking shall be required of the state or the state attorney or county solicitor or county prosecuting attorney before the issuance of a restraining order provided for by paragraph (b) of this section, and there shall be no liability on the part of the state or the state attorney or the county solicitor or the county prosecuting attorney for costs or for damages sustained by reason of such restraining order in any case where a final decree is rendered in favor of the person sought to be enjoined.

(f) Every person who has possession, custody, or control of, or otherwise deals with any of the materials, matters, articles, or things described in this act, after the service upon him of a summons and complaint in an action for injunction brought under this section, is chargeable with knowledge of the contents and character thereof.

Section 5.

The several sheriffs, constables, state attorneys, county solicitors, and county prosecuting attorneys shall vigorously enforce this act within their respective jurisdictions.

Section 6.

This act shall not apply to the exhibition of motion picture films permitted by section 521.02, Florida Statutes.

Section 7.

For the purposes of this act, the word person includes individuals, firms, associations, corporations, and all other groups and combinations.

Section 8.

If any provision or part of this act should be held invalid, the remainder of the act shall not be affected by such holding.

Section 9. This act shall take effect on October 1, 1967.

Approved by the Governor June 7, 1967.

Filed in Office Secretary of State June 7, 1967.